

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated December 8, 2009 (hereinafter Office Action) have been considered. Claims 1, 4, 6, 13-15, 18, 20, 21, 29, 30, 33, 36, 39-41, 48-50, 53, 55, 58, 60, 63, and 64 remain pending in the application. Claims 1, 20, 36, 49, 50, 55, 58, 60, 63, and 64 are amended herein. No new matter is added. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1, 13-15, 18, 20, 33, 36, 39, 48-50, 53, 55, 60, and 63-64 are rejected based on 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2005/0038478 by Klepfer et al. (hereinafter “Klepfer”) in view of U.S. Patent No. 7,031,773 to Levine et al. (hereinafter “Levine”). Claims 4, 6, 21, 29-30, 40-41, and 58 are also rejected based on 35 U.S.C. §103(a) as being unpatentable over Klepfer in view of Levine.

Independent claims 1, 20, and 36 have been amended herein to clearly negate the interpretation of these claims used in the Office Action, whereby therapy “disablement” was merely a temporary withholding of the therapy while a therapy parameter was adjusted and then the therapy was restarted. Klepfer may describe such temporary withholding ([0080], [0085]), but the present invention concerns a different concept. Accordingly, Klepfer and Levine do not account for all elements of independent claims 1, 20, and 36.

Each of claims 4, 6, 13-15, 18, 21, 29, 30, 33, 39-41, 48-50, 53, 55, 58, 60, 63, and 64 depend from one of independent claims 1, 20, and 36. Independent claims 1, 20, and 36 are not *prima facie* obvious for at least the reason that the rejection fails to account for all elements of these claims. While no acquiescence is made to the particular rejections of the claims, it is believed that these rejections are now moot in view of the remarks made in connection with independent claims 1, 20, and 36. Therefore, withdrawal of the obviousness-type rejections of claims 1, 4, 6, 13-15, 18, 20, 21, 29, 30, 33, 36, 39-41, 48-50, 53, 55, 58, 60, 63, and 64 and notification that these claims are in condition for allowance is respectfully requested.

To the extent that the current response does not respond to any characterization in the Office Action of the asserted art or of the claimed subject matter, or to any application

in the Office Action of the asserted art to any claimed subject matter, it is stated for the record that any such lack of response should not be interpreted as an acquiescence to such characterizations or applications. A detailed discussion of each of the Office Action's characterizations, or any other assertions or statements beyond that provided above is unnecessary in view of the present response. The right to address in detail any such assertions or statements in the future is reserved. It is respectfully submitted that the application is in condition for allowance, timely notification of which is kindly requested.

Authorization is given to charge Deposit Account No. 50-3581 (GUID.014US01) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8500 Normandale Lake Blvd., Suite 320
Minneapolis, MN 55437
952.854.2700

Date: March 30, 2010

By: /Paul Sherburne/

Paul Sherburne
Reg. No. 57,843